IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 3552 of 2006
Date of decision : 22.9.2006.

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Parties Name

Pappu Proprietor Electric Shop (Repairs) through
Prop. Pappu Di Hatti, Bus Stop Kot Fatuhi, Police Station
Mahilpur

..... appellant

vs.

Hardial Singh

.....Respondent

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Mrs. Satpreet K. Kapila, Advocate
for the appellant.

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**S.N. Aggarwal, J.**

Hardial Singh-respondent was the owner of the shop in dispute. It was situated near bus stop Kot Fatuhi, P.S. Mahilpur. The appellant was the tenant in the said shop. The appellant failed to pay the rent regularly on which the respondent served a notice dated 21.1.1998 under Section 106 of the Transfer of Property Act and terminated the tenancy. When the appellant failed to vacate the premises, he filed the suit for possession.

The appellant pleaded many legal objections. It was pleaded that earlier the shop was on monthly rent of Rs.160/- and he had paid

the rent for the period from March 1990 to March 1992. Thereafter, the rent was increased to Rs.300/- per month and he made the payment of Rs.13,305/- as the arrears of rent to the respondent on 1.4.1997. Thereafter, he continued depositing the amount of rent in the bank account of the respondent and he was not running into the arrears of rent.

The issues were framed. The parties led the evidence. The learned trial Court recorded the finding of fact that the plaintiff is entitled to the possession of the shop in dispute and accordingly, the suit was decreed vide judgment and decree dated 25.2.2004.

The appellant filed the appeal. Learned Lower Appellate Court upheld the findings of fact recorded by the learned trial Court and dismissed the appeal vide judgment and decree dated 21.7.2006.

Hence, the present appeal.

The learned counsel for the appellant submitted that the rent was not payable by the appellant to the respondent and therefore, the appellant was not running into the arrears of rent.

This submission has been considered. The appellant himself has conceded that once he had paid the rent to the appellant @ Rs.160/- per month and he paid the rent for the period from March 1990 to March 1992 at one time. His further version was that the rent was increased to Rs.300/- per month and he paid the amount of Rs.13,305/- as the arrears of rent on 1.4.1997. He further admitted that he started depositing the rent in the bank account of the respondent in Punjab National Bank, Kot Fatuhi Branch. But this was paid only upto 29.4.2004. Thereafter the bank authorities had refused

to accept the rent. The ejectment petition was filed on 27.4.2001.

This conduct of the appellant clearly reveals that he had not been making the payment of rent regularly. He only paid the rent in lump sum at two occasions. It was for the appellant to seek instructions from the respondent as to where the rent was payable in his absence as he was residing abroad. But no such evidence has been led by the appellant to prove that fact.

Both the Courts below have recorded the concurrent finding of fact that the tenancy of the appellant has been terminated by the respondent by serving a valid legal notice. Therefore, after the termination of the tenancy, the appellant is liable to hand over the vacant possession of the shop to the respondent.

There is no circumstance on the file to disturb the concurrent finding of fact recorded by the learned Courts below.

No substantial question of law arises.

No merit. Dismissed.

**( S.N.Aggarwal )**
**Judge**

**22.9.2006.**
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